

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT FOR DECEMBER 16, 2021 @ 7pm

Case Number: B-21-22 (B266593)

Applicant(s): Shannon Kropkowski

Appeal: Requesting a Special Exception Approval for a Limited Agricultural Activity in the Residential Districts in accordance with Section 1-19-3.210 and Section 1-19-8.325 of the Frederick County Zoning Ordinance to allow up to 4 chickens with no roosters, on a residentially zoned property.

Location: The property is described as 9208 Oak Tree Circle, Frederick MD 21771, Tax Map 50, Parcel 0145, Tax ID# 08213569, Zoned Low Density Residential (R-1), Size .55 Acres.

Planning Region: Frederick

Zoning District: Low Density Residential (R1)

Comp. Plan Designation: Rural Residential

Applicable Ordinances: Sec. 1-19-3.210 Special Exceptions
Sec. 1-19-8.325 Limited Agricultural Activity in the Residential Districts
Sec. 1-19-11.100 Definitions

Background:

The subject parcel is zoned Low Density Residential and contains .55 acres.

Section 1-19-11.100 of the Frederick County Zoning Ordinance defines *AGRICULTURAL ACTIVITY, LIMITED* as “The keeping of farm animals in residential districts on lots with less than 3 acres. Apiaries are excluded from this definition.”

Section 1-19-11.100 of the Frederick County Zoning Ordinance defines *FARM ANIMALS* as “Those animals ordinarily found on a farm, including but not limited to: horses, ponies, sheep, goats, bulls, buffalo, cows, steers, rabbits raised for commercial purposes, turkeys, pigs, ducks, geese, chickens and guinea hens.”

Proposal:

The Applicant is requesting Special Exception approval for a Limited Agricultural Activity for keeping up to 4 chickens, with no roosters, on a residential lot that is less than 3 acres. The Applicant has submitted a site plan showing that the proposed pen area will meet the 50 foot setback requirement. (Attachment 1)

Sec. 1-19-3.210 Special Exceptions.

- A An application for a special exception may be made only by persons with a financial, contractual or proprietary interest in the property for which a special exception is requested.

The Applicant states that Shannon Kropkowski is the owner of the property for which the special exception is requested.

- B. A grant of a special exception is a matter of development policy, rather than an appeal based on administrative error or on hardship in a particular case. The Board of Appeals should consider the relation of the proposed use to the existing and future development patterns. A special exception shall be granted when the Board finds that:

1. The proposed use is consistent with the purpose and intent of the Comprehensive Development Plan [Livable Frederick Master Plan] and of Chapter 1-19 of the County Code; and

The Applicant states that the keeping of chickens is consistent with the rural nature of their community that also includes farms and other rural related uses.

The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located; and

The Applicant states that the property is in proximity to other properties with agricultural use. The animals are quiet and should not disturb any neighbors; no roosters are going to be kept.

2. Operations in connection with the special exception at the proposed location shall not have an adverse effect such as noise, fumes, vibration or other characteristics on neighboring properties above and beyond those inherently associated with the special exception at any other location within the zoning district; and

The Applicant states that the pens will be kept clean with regular cleanings and will not have an adverse effect on any of the surrounding neighbors.

3. Parking areas will comply with the off street parking regulations of Chapter 1-19 of the County Code and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

The Applicant states that the subject property is her private residence and no further parking is required beyond the existing driveway.

4. The road system providing access to the proposed use is adequate to serve the site for the intended use.

The Applicant states that Oak Tree Circle is adequate to serve the property and provides adequate access to serve the intended use.

- C. In addition to the general requirements listed above, uses requiring a special exception shall be subject to the specific requirements for each use outlined in §§ 1-19- 8.320 through 1-19- 8.355 of the County Code.

The Applicant states that pen will be at least 50 feet away from the property lines as indicated on the submitted drawing. We will have no employees and no equipment will be used except when necessary to clean and maintain the property.

- D. A special exception approval may be granted in accordance with the general and specific requirements enumerated in Sec.1-19-3.210 of the County Code. The Board of Appeals may, in addition to other requirements imposed under Chapter 1-19 of the County Code and is hereby authorized to add to the specific requirements any additional conditions that it may deem necessary to protect adjacent properties, the general neighborhood, and its residents or workers. Violation of such additional conditions, when made a part of the terms under which the special exception permit is granted, is a violation of Chapter 1-19 of the County Code and may be grounds for termination of the special exception.

The Applicant states that she they understands this requirement.

- E. The Board of Appeals shall not grant a special exception unless and until:
 1. A written application for a special exception is submitted indicating the section of Chapter 1-19 of the County Code under which the special exception is sought and stating the grounds on which it is requested; and
 2. A public hearing has been held; and the Board had made a finding of fact that the special exception requested meets the general and specific requirements outlined in Sec. 1-19-3.210 of the County Code.

The Applicant states that she understands this requirement.

- F. The grant of special exception may include approval of customary incidental accessory uses as reviewed and approved by the Zoning Administrator.

The Applicant states that she understands this requirement.

- G. No use or activity permitted as a special exception shall be enlarged or extended beyond the limits authorized in the grant of special exception. All enlargements, extensions, and changes in use shall require grants of special exception, as in the case of an original petition.

The Applicant states that she understands this requirement.

- H. If a grant of special exception is denied, no new petition for the denied use on the same property shall be accepted by the Board of Appeals for 1 year after the date of denial of the petition.

The Applicant states that she understands this requirement.

- I. A decision of the Board of Appeals granting a special exception will be void 5 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the Applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

The Applicant states that she understands this requirement.

Sec. 1-19-8.325 Limited Agricultural Activity In The Residential Districts.

A limited agricultural activity shall be permitted in the residential districts where the following provisions are met:

- A. The keeping of farm animals in conjunction with a single family residence, on lots less than 3 acres, shall be permitted in residential districts provided that no pens, stalls, or runs will be located closer than 50 feet of any lot line (see also § 1-19-8.240).

The Applicant states that she understands this requirement and has provided a site plan showing the pen location is at least 50 feet from all property lines.

- B. All criteria in § 1-19-3.210 and all other provisions of Chapter 1-19 of the County Code shall be met.

The Applicant states that she understands these requirements.

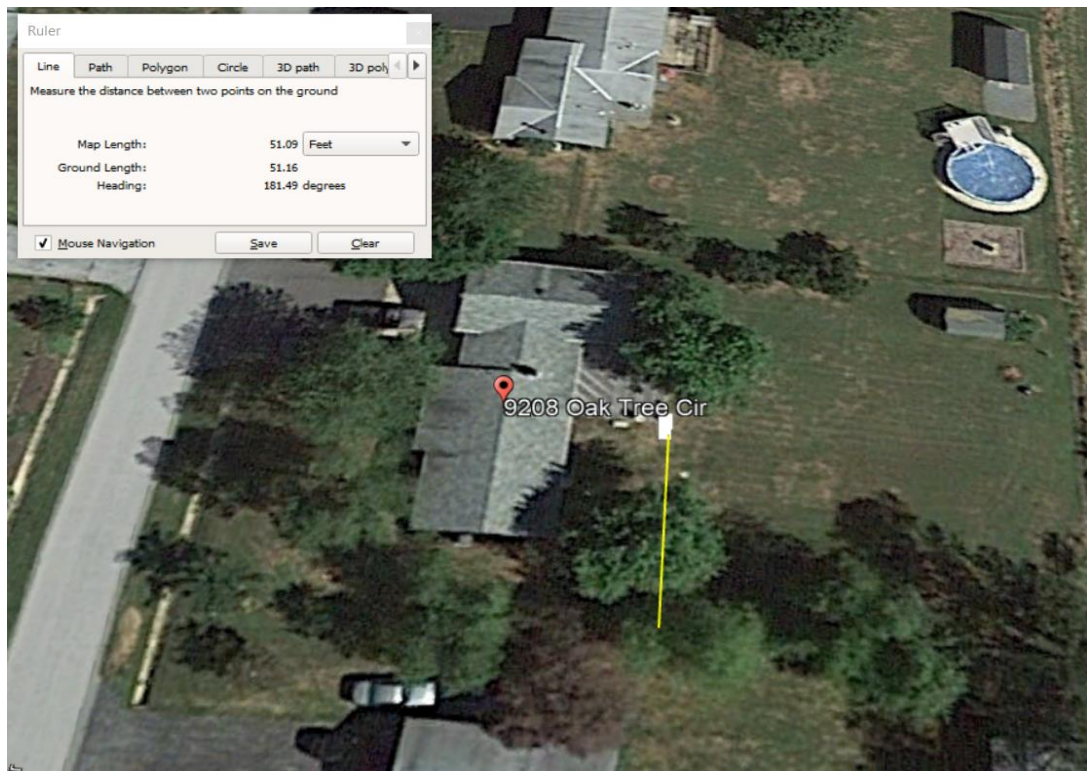
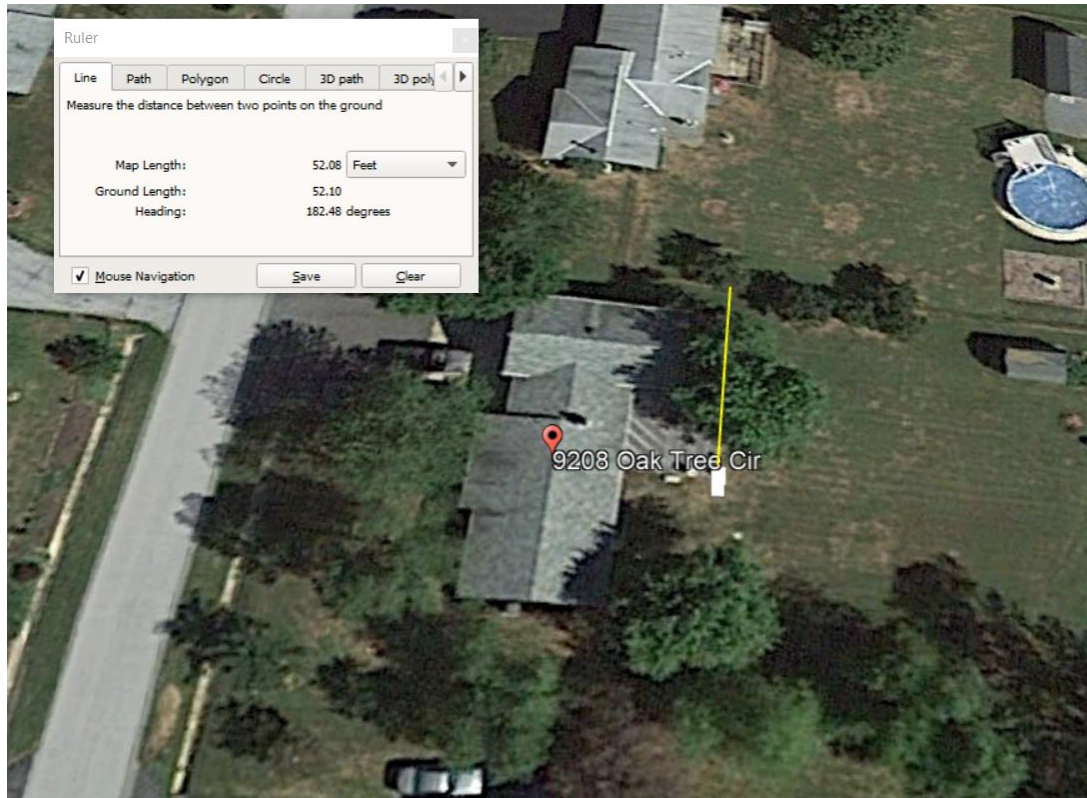
- C. The limited agricultural activity shall not cause any odor, dust, smoke, vibration or unreasonable noise, which can be detected at or beyond the property line.

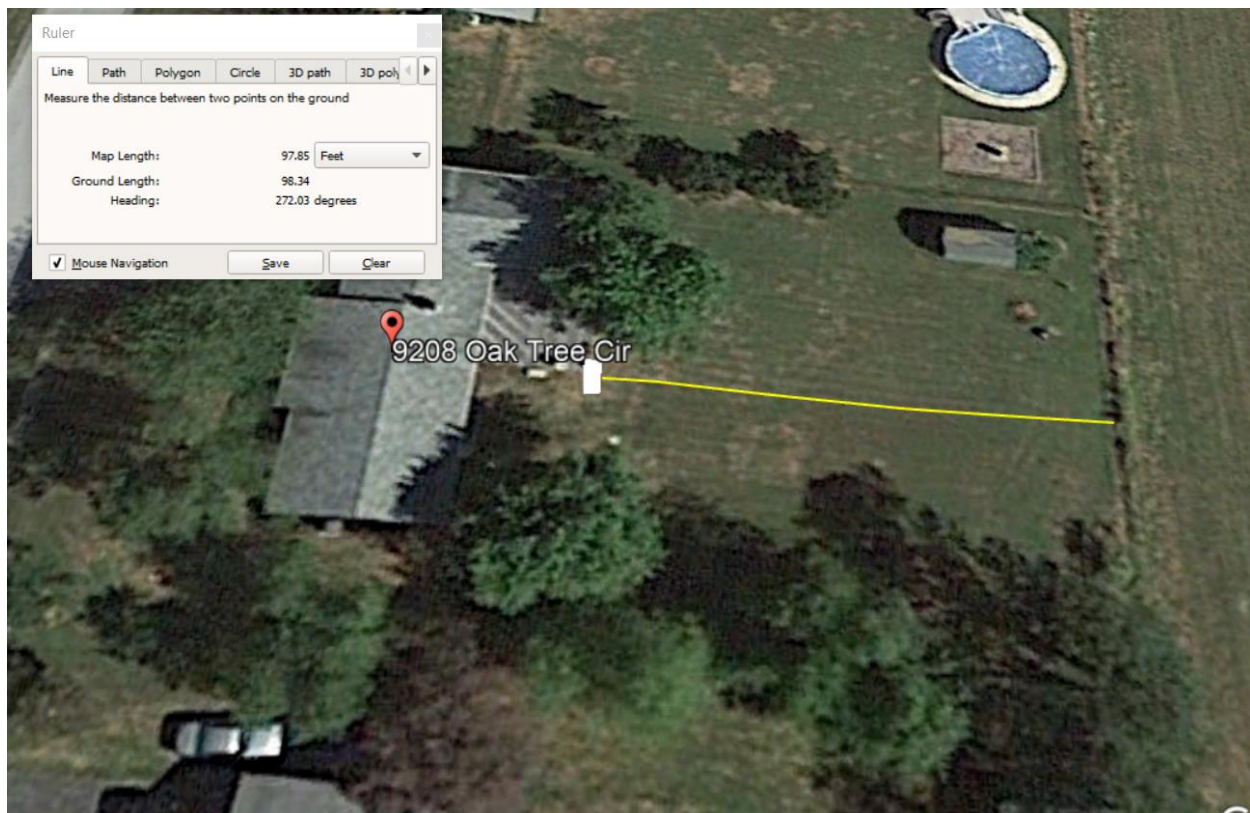
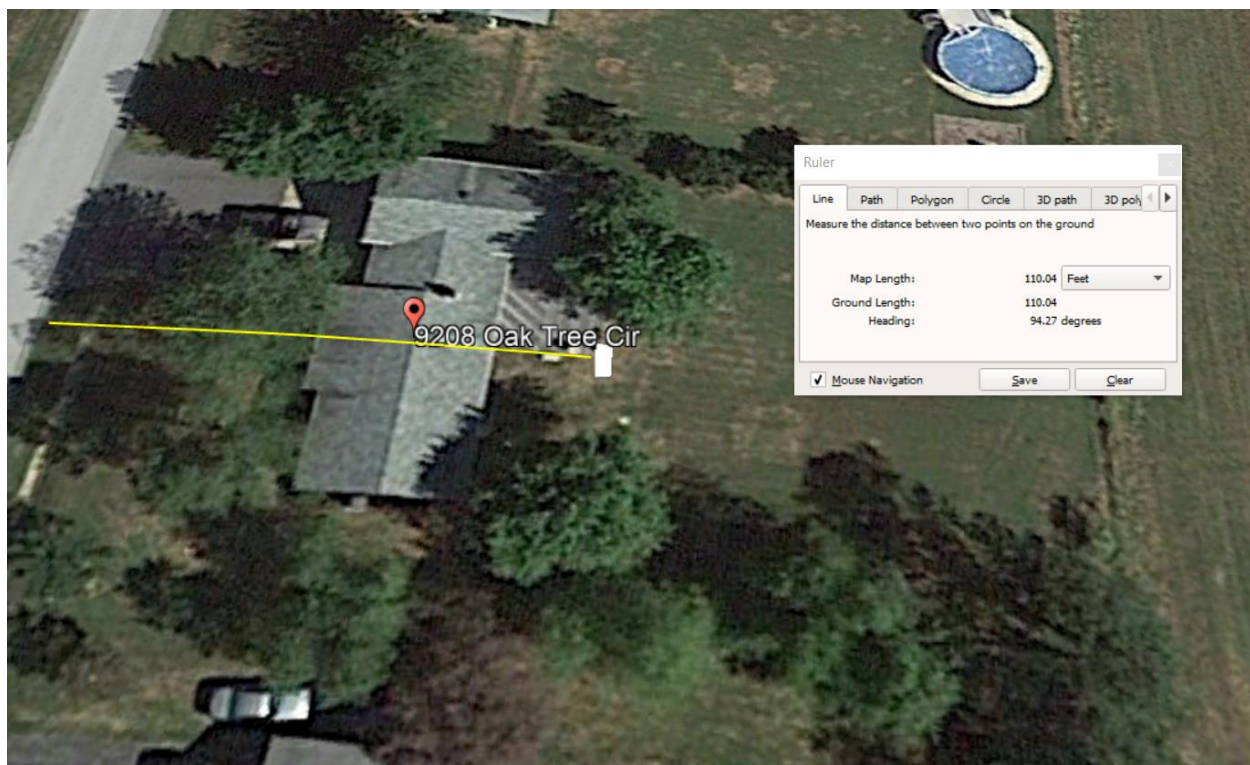
The Applicant states that she understands these requirements.

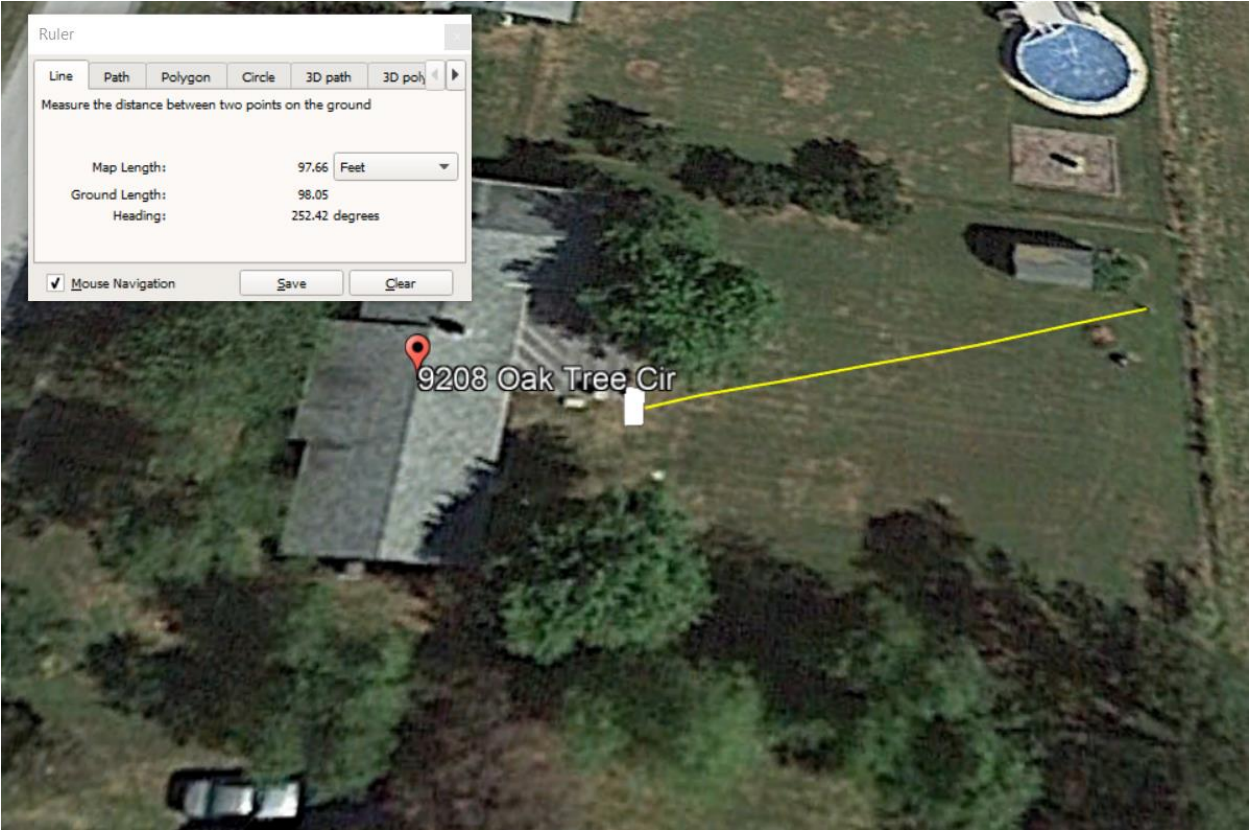
Action Required:

Staff requests that the Board review the general and specific criteria for Special Exception under Section 1-19-3.210 (*Special Exceptions*) and Section 1-19-8.325 (*Ltd Ag Activity in the Residential Districts*) of the Frederick County Zoning Ordinance and render a decision on the Applicant' request to allow up to 4 chickens on the property with no roosters.

Attachments 1-6







[See More](#)

Weights & Dimensions



Overall	46.25" H x 98" W x 38.5" D
Nesting Box	16.25" H x 13.75" W x 30" D
Overall Square Feet	26 square feet

GIS MAPS

